

HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHILIP MARTIN, T.F. (NATALIE) TANG,
and YATIN KHANNA, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

BINANCE HOLDINGS, LTD. d/b/a
BINANCE, BAM TRADING SERVICES,
INC. d/b/a BINANCE US, a Delaware
corporation, and CHANGPENG ZHAO,

Defendants.

Case No. 2:24-cv-01264-BJR

**STIPULATED MOTION TO CONTINUE
MOTION TO COMPEL ARBITRATION
BRIEFING SCHEDULE**

I. STIPULATED MOTION

1. Plaintiffs Philip Martin, T.F. (Natalie) Tang, and Yatin Khanna (collectively, “Plaintiffs”), and Defendants Binance Holdings, Ltd. (“BHL”), BAM Trading Services Inc. (“BAM”), and Changpeng Zhao (collectively, “Defendants”) respectfully submit that good cause exists to extend the Motion to Compel Arbitration briefing schedule because Defendants intend to rely on recent filings, a recent court order, and a pending ruling in another matter—*Osterer, et. al. v. Binance Holdings Ltd., et al.*, No. 23-22083 (S.D. Fla.) (“*Osterer*”)—in support of their Motion to Compel Arbitration. The parties stipulate and agree as follows:

A. The Current Motion to Compel Briefing Schedule

2. On August 16, 2024, Plaintiffs filed the Complaint. (ECF No. 1.)

3. On October 7, 2024, the Court granted the parties' Stipulated Motion to Waive Service and Set Schedule for Response to Complaint, wherein the parties agreed, among other things, to bifurcate Defendants' response such that (1) the Court would first decide Defendants' Motion to Compel Arbitration, and (2) if the Court denied Defendants' Motion to Compel Arbitration, the parties would meet and confer regarding any potential motion pursuant to Fed. R. Civ. P. 12(b). (ECF No. 42 (the "Bifurcation Stipulation").) Pursuant to the Bifurcation Stipulation, Defendants' original deadline to file the Motion to Compel was December 6, 2024.

4. On October 10, 2024, the Court issued the Order Regarding Initial Disclosures and Joint Status Report, setting a November 7, 2024, deadline for the Fed. R. Civ. P. 26(f) conference; a November 14, 2024, deadline for initial disclosures; and a November 21, 2024, deadline for the parties to file a Joint Status Report and Discovery Plan. (ECF No. 48.)

5. The parties met and conferred and agreed that a stay of all discovery, except for limited arbitration-related discovery between BHL and Plaintiffs that would serve judicial economy and the parties' best interest. On November 13, 2024, the parties filed the Stipulated Motion to Stay Discovery and Amend the Briefing Schedule for Motion to Compel Arbitration, requesting a stay of all discovery but allowing for limited arbitration-related discovery between BHL and Plaintiffs, setting a discovery schedule for the arbitration-related discovery, and extending the Motion to Compel Arbitration briefing deadlines by one week to allow the parties to conduct the discovery. (ECF No. 58.) On November 14, 2024, the Court granted the parties' stipulated Motion and ordered that (1) the deadline for Defendants to file a Motion to Compel is extended to December 13, 2024, and (2) that the deadlines in the Initial Schedule shall be stayed until the Court enters a decision on Defendants' Motion to Compel, and if Defendants file a Motion to Dismiss, the Court enters a decision on Defendants' Motion to Dismiss. (ECF No. 59.)

B. The Osterer Action

6. On June 5, 2023, Michael Osterer filed a putative class action against BHL and

1 BAM. (*Osterer*, ECF No. 1.)

2 7. On December 8, 2023, defendants in *Osterer* filed a Motion to Compel Arbitration.
3 (*Osterer*, ECF No. 49.) On May 24, 2024, while the Motion to Compel Arbitration was pending,
4 plaintiff Osterer filed a Motion for Leave to Amend seeking to add the three Plaintiffs in this
5 instant action (Philip Martin, T.F. (Natalie) Tang, and Yatin Khana) as additional named plaintiffs
6 to the putative class action complaint, to add Changpeng Zhao as an additional defendant, and to
7 amend the allegations and claims at issue in that action. (*Osterer*, ECF No. 62.)

8 8. On July 31, 2024, the *Osterer* court issued an order (1) granting the Motion to
9 Compel Arbitration, (2) denying the Motion for Leave to Amend as moot in light of the arbitration
10 order, (3) staying proceedings, (4) administratively closing the case, and (5) directing the parties
11 to provide status updates on arbitration every 60 days. (*Osterer*, ECF No. 71 (the “Arbitration
12 Order”).)

13 9. On September 30, 2024, the parties in *Osterer* filed a status update informing the
14 court that “to date, no arbitration has been commenced.” (*Osterer*, ECF No. 72.)

15 10. On December 3, 2024, the court issued an Order to Show Cause directing the parties
16 in *Osterer* to file a joint status report. (*Osterer*, ECF No. 73.)

17 11. On December 5, 2024, Mr. Osterer filed a Notice of Voluntary Dismissal Without
18 Prejudice seeking dismissal of all claims asserted by him (individually) and the putative class.
19 (*Osterer*, ECF No. 74.) The same day, the defendants in that action filed a Motion to Enforce Order
20 Compelling Arbitration, Strike Plaintiff’s Notice of Voluntary Dismissal, and Dismiss With
21 Prejudice (“Motion to Dismiss With Prejudice”). (*Osterer*, ECF No. 75.) Defendants argued that
22 the voluntary dismissal without prejudice was not self-executing and the court should dismiss with
23 prejudice.

24 12. On December 5, 2024, the parties also filed a joint response to the Court’s Order to
25 Show Cause. (*Osterer*, ECF No. 76.)

26 13. Later that day, the court issued a Paperless Order holding that “it appears that the
27 Notice [of Voluntary Dismissal Without Prejudice] was improperly filed because the Federal

Arbitration Act’s mandatory stay provision, 9 U.S.C. § 3, precludes voluntary dismissal of a case stayed pending arbitration.” (*Osterer*, ECF No. 77.) The court ordered that “**on or before December 12, 2024**, Plaintiff shall file a response to the Motion indicating why the Court should not strike the Notice and dismiss this action with prejudice for failure to arbitrate as required by the Order.” (*Id.* (alterations original).)

C. Stipulated Extension to Motion to Compel Briefing

14. Currently, the deadline for Defendants to file a Motion to Compel Arbitration in the instant action is on December 13, 2024—one day after Mr. Osterer is required to respond to the Motion to Dismiss With Prejudice. Defendants’ position is that, *inter alia*, the Arbitration Order and pending order on the Motion to Dismiss *with prejudice*, are binding on the Plaintiffs in this action. Therefore, Defendants are seeking an extension to the Motion to Compel Arbitration briefing schedule so that they may include arguments based on any near-term ruling in *Osterer* in their Motion to Compel in this action.

15. Even though Plaintiffs do not agree with Defendants’ position that the *Osterer* case has any bearing on Plaintiffs’ claims here, in order to avoid unnecessary motion practice and to preserve judicial resources, Plaintiffs do not object to Defendants’ request for an extension to the briefing schedule. Accordingly, the parties respectfully request that the current deadlines be extended by approximately 30 days as follows:

- A. January 13, 2025: deadline for Defendants to file Motion to Compel
- B. January 23, 2025: deadline for Plaintiffs to issue arbitration discovery
- C. February 5, 2025: deadline for BHL to respond to discovery
- D. February 14, 2025: deadline for Plaintiffs to file memorandum in opposition to Defendants’ Motion to Compel Arbitration
- E. February 19, 2025: deadline for BHL to serve further arbitration discovery
- F. February 26, 2025: deadline for Plaintiffs to respond to discovery
- G. March 5, 2024: deadline for Defendants to file Motion to Compel Arbitration Reply

IT IS SO STIPULATED this 9th day of December 2024.

KELLER ROHRBACK LLP

LANE POWELL PC

By: /s/ Lynn Lincoln Sarko
 Derek W. Loeser, WSBA No. 24274
 Lynn Lincoln Sarko, WSBA No.
 16569
 Chris N. Ryder, WSBA No. 58732
 1201 Third Avenue, Suite 3400
 Seattle, WA 98101-3052
 (206) 623-1900
 dloeser@kellerrohrback.com
 lsarko@kellerrohrback.com

By: /s/ Sean D. Jackson
 Sean D. Jackson WSBA No. 33615
 1420 Fifth Avenue, Suite 4200
 Seattle, WA 98101
 (206) 223-7000
 JacksonS@LanePowell.com

WITHERS BERGMAN LLP

*Attorneys for Plaintiffs Philip Martin, et.
 al.*

Christopher N. LaVigne, *Admitted pro hac
 vice*
 Tyler Goss, *Admitted pro hac vice*
 430 Park Avenue, 10th Floor
 New York, New York 10022-3505
 (212) 848-9800
 Kimberly Pallen, *Admitted pro hac vice*
 909 Montgomery Street, Suite 300
 San Francisco, CA 94133
 (415) 872-3200
 Vahe Mesropyan, *Admitted pro hac vice*
 10250 Constellation Blvd., Suite 1400
 Los Angeles, CA 90067
 (310) 277-9930
 christopher.lavigne@withersworldwide.com
 tyler.goss@withersworldwide.com
 kimberly.pallen@withersworldwide.com
 vahe.mesropyan@withersworldwide.com

*Attorneys for Defendant Binance Holdings Ltd.
 d/b/a Binance*

ROBBINS GELLER RUDMAN &
DOWD LLP

Evan J. Kaufman, *Admitted Pro Hac Vice*
Samuel H. Rudman, *Admitted Pro Hac Vice*
Jonathan A. Ohlmann, *Admitted Pro Hac Vice*
58 Service Road, Suite 200
Melville, NY 11747
(631) 367-7100
Eric I. Niehaus, *Admitted Pro Hac Vice*
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058
ekaufman@rgrdlaw.com
srudman@rgrdlaw.com
johlmann@rgrdlaw.com
erickn@rgrdlaw.com

SILVER MILLER

David C. Silver, *Admitted Pro Hac Vice*
Jason S. Miller, *Admitted Pro Hac Vice*
4450 NW 126th Avenue, Suite 101
Coral Springs, FL 33065
(954) 516-6000
dsilver@silvermillerlaw.com
jmillerr@silvermillerlaw.com

HERMAN JONES LLP

John C. Herman, *Admitted Pro Hac Vice*
3424 Peachtree Road, N.E., Suite 1650
Atlanta, GA 30326
(404) 504-6555
jherman@hermanjones.com

Attorneys for Plaintiffs Philip Martin, et al.

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By: /s/Alicia Cobb

Alicia Cobb, WSBA #48685
1109 First Avenue, Suite 210
Seattle, WA 98101
(206) 905-7000
aliciacobb@quinnemanuel.com

Avi Perry, *Admitted Pro Hac Vice*
1300 I Street, NW, Suite 900
Washington, D.C. 20005
(202) 538-8000
aviperry@quinnemanuel.com

Peter H. Fountain, *Admitted Pro Hac Vice*
Michael A. Linneman, *Admitted Pro Hac Vice*
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000
peterfountain@quinnemanuel.com
michaellinneman@quinnemanuel.com

Brenna Ledvora, *Admitted Pro Hac Vice*
191 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606
(312) 705-7400
brennaledvora@quinnemanuel.com

Attorneys for Defendant Changpeng Zhao

CORR CRONIN LLP

By: /s/Blake Marks-Dias

Blake Marks-Dias, WSBA No. 28169
Todd T. Williams, WSBA No. 45032
1015 Second Avenue, Floor 10
Seattle, WA 98104
(206) 625-8600
bmarksdias@corrchronin.com
twilliams@corrchronin.com

WINSTON & STRAWN LLP

Daniel Stabile, *Admitted Pro Hac Vice*
Gabriela Plasencia, *Admitted Pro Hac Vice*
200 S. Biscayne Blvd., Suite 2400
Miami, FL 33131
(305) 910-0500
dstabile@winston.com
gplasencia@winston.com

Thania Charmani (*pro hac vice*)
200 Park Avenue
New York, NY 10166-4196
(212) 294-6700
acharmani@winston.com

*Attorneys for Defendant BAM Trading Services
Inc. d/b/a/ BINANCE.US*

II. ORDER

IT IS SO ORDERED.

DATED this 10th day of December 2024.



BARBARA J. ROTHSTEIN
UNITED STATES DISTRICT JUDGE

Presented by:

LANE POWELL PC

By: /s/Sean D. Jackson

Sean D. Jackson WSBA No. 33615
1420 Fifth Avenue, Suite 4200
Seattle, WA 98101
(206) 223-7000
JacksonS@LanePowell.com

WITHERS BERGMAN LLP

Christopher N. LaVigne, *Admitted pro hac vice*
Tyler Goss, *Admitted pro hac vice*
430 Park Avenue, 10th Floor
New York, New York 10022-3505
(212) 848-9800
Kimberly Pallen, *Admitted pro hac vice*
909 Montgomery Street, Suite 300
San Francisco, CA 94133
(415) 872-3200
Vahe Mesropyan, *Admitted pro hac vice*
10250 Constellation Blvd., Suite 1400
Los Angeles, CA 90067
(310) 277-9930
christopher.lavigne@withersworldwide.com
tyler.goss@withersworldwide.com
kimberly.pallen@withersworldwide.com
vahe.mesropyan@withersworldwide.com

*Attorneys for Defendant Binance Holdings Ltd.
d/b/a Binance*

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COMPEL ARBITRATION BRIEFING SCHEDULE - 8
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LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WASHINGTON 98111-9402
206.223.7000 FAX: 206.223.7107